

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

DELIA ALVAREZ, §
§
Plaintiff, §
§
v. § No.
§
ADMIN RECOVERY, LLC, §
§
Defendant. §

PLAINTIFF'S COMPLAINT AND DEMAND FOR JURY TRIAL

DELIA ALVAREZ (“Plaintiff”), through her attorneys, KROHN & MOSS, LTD., alleges the following against ADMIN RECOVERY, LLC (“Defendant”):

INTRODUCTION

1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).
2. Count II of Plaintiff’s Complaint is based on Texas Statute, Financial Code, § 392.302 *et seq.* (“Texas Financial Code”).
3. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

4. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d), which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy.”
5. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.

6. Venue is proper pursuant to 28 U.S.C. § 1331(b)(2).

PARTIES

7. Plaintiff is a natural person residing in Combes, Cameron County, Texas.

8. Plaintiff is a consumer as that term is defined by 15 U.S.C. 1692a(3) and Texas Financial Code § 392.001(1), and according to Defendant, Plaintiff allegedly owes a debt as that term is defined by 15 U.S.C. 1692a(5) and Texas Financial Code § 392.001(2).

9. Defendant is a debt collector as that term is defined by 15 U.S.C. 1692a(6) Texas Financial Code § 392.001(6), and sought to collect a consumer debt from Plaintiff.

10. Defendant is a national company with a business office located in New York and conducted business in Texas at all times relevant

FACTUAL ALLEGATIONS

11. Defendant places collection calls to Plaintiff in connection with the collection of a debt Defendant is attempting to collect from Plaintiff.

12. Plaintiff's alleged debt, The Outdoor Power Store / Shoppers Charge, file number 247888, arises from transactions for personal, family, and household purposes.

13. Defendant places collection calls to Plaintiff's telephone number at XXX-XXX-7439.

14. In or around February of 2012, Defendant called Plaintiff and left a voicemail messages in Plaintiff's answering machine during its collection attempts. *See* transcript of two messages from Defendant to Plaintiff, attached hereto Exhibit A.

15. In the voicemail message, Defendant's representative, an individual identifying himself as Jesse, failed to state that the call was from a debt collector. *See* Exhibit A.

16. Defendant directed Plaintiff to call her back at 716-635-8460, extension 226, which

is a number that belongs to Defendant.

17. Defendant also represented to Plaintiff that Defendant could not “hold off on this any longer” and needed to “get something on file.” *See Exhibit A.*

COUNT I
DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

18. Defendant violated the FDCPA based on the following:

- a. Defendant violated § 1692e(5) of the FDCPA by threatening to take action that cannot legally be taken or is not intended to be taken;
- b. Defendant violated § 1692e(10) of the FDCPA by using false representations and/or deceptive means to attempt to collect a debt; and
- c. Defendant violated § 1692e(11) of the FDCPA by failing to disclose in subsequent communications that the communication was from a debt collector.

WHEREFORE, Plaintiff, DELIA ALVAREZ, respectfully requests judgment be entered against Defendant, ADMIN RECOVERY, LLC, for the following:

19. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k,

20. Costs and reasonable attorneys’ fees pursuant to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692k

21. Any other relief that this Honorable Court deems appropriate.

COUNT II:
DEFENDANT VIOLATED
THE TEXAS FINANCIAL CODE

22. Defendant violated Texas Financial Code based on, but not limited to, the following:

- a. Defendant violated § 392.304(a)(5)(B) of the Financial Code by leaving a

message for Plaintiff and failing to disclose that the message was from a debt collector;

- b. Defendant violated § 392.304(a)(19) of the Financial Code by using false representations and/or deceptive means to collect a debt.

WHEREFORE, Plaintiff, DELIA ALVAREZ, respectfully requests judgment be entered against Defendant, ADMIN RECOVERY, LLC, for the following:

23. Injunctive relief pursuant to Texas Financial Code § 392.403(a)(1), to prevent Defendant from further violating the Texas Financial Code;
24. Costs and reasonable attorneys' fees pursuant to Texas Financial Code § 392.403(b); and
25. Any other relief that this Court deems appropriate.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, DELIA ALVAREZ, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

Dated: July 10, 2012

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